

Initiative Measure No. 1333

filed January 16, 2014

AN ACT Relating to the medical use of cannabis; amending RCW 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.047, 69.51A.050, 69.51A.055, 69.51A.060, 69.51A.085, and 69.51A.110; adding new sections to chapter 69.51A RCW; creating new sections; and repealing RCW 69.51A.043 and 69.51A.070.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1. 1 . }** A new section is added to 69.51A RCW to read as follows:

(1) Washington state voters spoke in 1998, with the passage of Initiative Measure No. 692 creating cannabis for medical use by qualifying patients under chapter 69.51A RCW. In 2011, poor judgment and lack of leadership lead to the removal of regulation for Washington state's cannabis for medical use market.

(2) The people intend to ensure the protection of qualifying patients, health care professionals, and designated providers by:

(a) Protecting access for patients to cannabis for medical use by preserving the intent of Initiative Measure No. 692 while creating the regulation intended with Engrossed Substitute Senate Bill No. 5073, yet vetoed out, using the bipartisan language previously approved by a bipartisan legislature specifying cannabis for medical use licensing;

(b) Protecting qualifying patients under eighteen years of age, parents, legal guardians, and his or her designated provider;

(c) Allowing cannabis to be used as a botanical herb for qualifying patients exempting it from taxation;

(d) Creating the cannabis for medical use regulation board to create a not-for-profit business model that is the cannabis for medical use market. The mission is to provide the highest quality medicine to the patients at the lowest price possible for qualifying patients who need it the most;

(e) Creating an application fee, an annual fee for insurance and renewal of licenses, and regulation fees on cannabis for medical use that are managed by the board to use in conjunction with other funds in the dedicated cannabis for medical use account to keep the regulation of the cannabis for medical use market by the board revenue neutral; and

(f) Requiring proof of impairment for qualifying patients under the driving under the influence laws of Washington state.

(3) Therefore, the people further strengthen reform to this chapter of Washington state by enacting changes.

Sec. 2. 2 . RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cannabis" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" includes cannabis products and usable cannabis.

(2) "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, concentrates, topical creams, salves, and other medical preparations. "Cannabis products" does not include usable cannabis.

(3) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in writing by a patient to serve as a designated provider under this chapter;

(c) Is prohibited from consuming (~~((marijuana))~~) cannabis obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; (~~((and))~~)

(d) Is the designated provider to only one patient at any one time; and

(e) Is in compliance with the terms and conditions set forth in RCW 69.51A.040.

(4) "Dispense" means the selection, measuring, packaging, labeling, delivery, or retail sale of cannabis by an employee, volunteer, officer, or operator of a licensed cannabis for medical use dispenser to a qualifying patient or designated provider.

(5) "Dispensary" means the premises and equipment where cannabis is dispensed to qualifying patients and designated providers, including all vehicles and equipment used to transport cannabis from a licensed cannabis for medical use dispenser to a qualifying patient or designated provider.

~~((2))~~ (6) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

~~((3))~~ (7) "Labeling" means all labels or other written, printed, or graphic matter (a) upon any cannabis intended for medical use, or (b) accompanying such cannabis.

(8) "Licensed medical cannabis dispenser" means a person or entity with a Washington state business license issued by the department of revenue, and from the cannabis for medical use regulation board that dispenses cannabis

to qualifying patients and designated providers.

(9) "Licensed medical cannabis processor" means a person or entity with a Washington state business license issued by the department of revenue, and from the cannabis for medical use regulation board that processes cannabis for wholesale to any cannabis for medical use licensee.

(10) "Licensed medical cannabis producer" means a person or entity with a Washington state business license issued by the department of revenue, and from the cannabis for medical use regulation board that produces cannabis for wholesale to any cannabis for medical use licensee.

(11) "Medical use of ((marijuana)) cannabis" means, though not limited to, the production, possession, transportation, delivery, dispensing, ingestion, application, or administration of ((marijuana, as defined in RCW 69.50.101(q)),) cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating ((illness)) medical condition.

((4)) (12) "Nonresident" means a person who is temporarily in the state but is not a Washington state resident.

(13) "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

(14) "Process" means to label, handle, infuse, extract, or otherwise prepare cannabis for medical use.

(15) "Processing facility" means the premises and equipment where cannabis products are processed for wholesale, delivery, or transportation to any other cannabis for medical use licensee, including all vehicles and equipment used to transport cannabis products from a licensed cannabis for medical use processor to any other cannabis for medical use licensee.

(16) "Produce" means to plant, grow, harvest, store, handle, package, or label cannabis for medical use.

(17) "Production facility" means the premises and equipment where cannabis is produced for wholesale, delivery, or transportation to any other cannabis for medical use licensee, including all vehicles and equipment used to transport cannabis from a licensed cannabis for medical use producer to any other cannabis for medical use licensee.

(18) "Qualifying patient" means a person who:

- (a) Is a patient of a health care professional;
- (b) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
- (c) Is a resident of the state of Washington at the time of such diagnosis;
- (d) Has been advised by that health care professional about the risks and benefits of the medical use of ((marijuana)) cannabis; ((and))

(e) Has been advised by that health care professional that ~~((they))~~ he or she may benefit from the medical use of ~~((marijuana))~~ cannabis; and

(f) Is otherwise in compliance with the terms and conditions established in this chapter.

~~((5))~~ (19) "Tamper-resistant ~~((paper))~~ document" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit valid documentation.

~~((6))~~ (20) "Terminal or debilitating medical condition" means, yet not limited to:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, ~~((wasting))~~ cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) ~~((Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter))~~ Post-traumatic stress syndrome with debilitating symptoms unrelieved by standard treatments or medications.

~~((7))~~ (21) "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of usable cannabis or cannabis product.

(22) "Usable cannabis" means dried flowers of the cannabis plant having a THC concentration greater than three-tenths of one percent. Usable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight. "Usable cannabis" does not include cannabis products.

(23) "Valid documentation" means:

(a) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant ~~((paper))~~ document, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of ~~((marijuana))~~ cannabis; and

(b) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035.

(24) "Correctional facility" has the same meaning as provided in RCW 72.09.015.

(25) "Peace officer" means any law enforcement personnel as defined in RCW 43.101.010.

(26) "Person" means an individual or an entity.

(27) "Collective garden" means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce, process, and deliver cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cutting; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

Sec. 3. 3 . RCW 69.51A.030 and 2011 c 181 s 301 are each amended to read as follows:

(1) The following acts do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

(a) Advising a patient about the risks and benefits of medical use of cannabis or that the patient may benefit from the medical use of cannabis; or

(b) Providing a patient (~~((meeting the criteria established under RCW 69.51A.010(26)))~~) with valid documentation, based upon the health care professional's assessment of the patient's medical history and current medical condition, where such use is within a professional standard of care or in the individual health care professional's medical judgment.

(2)(a) A health care professional may only provide a patient with valid documentation authorizing the medical use of cannabis (~~((or register the patient with the registry established in section 901 of this act))~~) if he or she has a newly initiated or existing documented relationship with the patient, as a primary care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition, and only after:

(i) Completing a physical examination of the patient as appropriate, based on the patient's condition and age;

(ii) Documenting the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of cannabis;

(iii) Informing the patient of other options for treating the terminal or debilitating medical condition; and

(iv) Documenting other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of cannabis.

(b) A health care professional shall not:

(i) Accept, solicit, or offer any form of pecuniary remuneration from or to a licensed cannabis for medical use dispenser, licensed cannabis for medical use producer, or licensed cannabis for medical use processor of cannabis products;

(ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular licensed cannabis for medical use dispenser, licensed cannabis for medical use producer, or licensed cannabis for medical use processor of cannabis products;

(iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where cannabis is produced, processed, or dispensed;

(iv) Have a business or practice which consists solely of authorizing the medical use of cannabis;

(v) Include any statement or reference, visual or otherwise, on the medical use of cannabis in any advertisement for his or her business or practice; or

(vi) Hold an economic interest in an enterprise that produces, processes, or dispenses cannabis if the health care professional authorizes the medical use of cannabis except where a health care professional is performing scientific research, as protected elsewhere in this chapter, that has been approved by the human subjects committee of a public or private research institute located in Washington state.

(3) A violation of any provision of subsection (2) of this section constitutes unprofessional conduct under chapter 18.130 RCW.

Sec. 4. 4 . RCW 69.51A.040 and 2011 c 181 s 401 are each amended to read as follows:

The medical use of cannabis in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient or designated provider in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences, for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, and investigating peace officers and law enforcement agencies may not be held civilly liable for failure to seize cannabis in this circumstance, if:

(1)(a) The qualifying patient or designated provider possesses no more than fifteen cannabis plants and:

(i) No more than twenty-four ounces of (~~useable~~) usable cannabis;

(ii) No more cannabis product than what could reasonably be produced with no more than twenty-four ounces of (~~useable~~) usable cannabis; or

(iii) A combination of (~~useable~~) usable cannabis and cannabis product that does not exceed a combined total representing possession and processing of no more than twenty-four ounces of (~~useable~~) usable cannabis.

(b) If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in (a) of this subsection, whether the plants, (~~useable~~)

usable cannabis, and cannabis product are possessed individually or in combination between the qualifying patient and his or her designated provider;

(2) The qualifying patient or designated provider presents his or her ~~((proof of registration with the department of health))~~ valid documentation, to any peace officer who questions the patient or provider regarding his or her medical use of cannabis;

(3) The qualifying patient or designated provider keeps a copy of his or her ~~((proof of registration with the registry established in section 901 of this act))~~ valid documentation and the qualifying patient or designated provider's contact information ~~((posted prominently next to))~~ available at all times on the premises where any cannabis plants, cannabis products, or ~~((useable))~~ usable cannabis is located ~~((at his or her residence))~~;

(4) The investigating peace officer does not possess evidence that:

(a) The designated provider has converted cannabis produced or obtained for the qualifying patient for his or her own personal use or benefit; or

(b) The qualifying patient has converted cannabis produced or obtained for his or her own medical use to the qualifying patient's personal, non-medical use or benefit; and

(5) The investigating peace officer does not possess evidence that the designated provider has served as a designated provider to more than one qualifying patient within a fifteen-day period~~((; and~~

~~——(6) The investigating peace officer has not observed evidence of any of the circumstances identified in section 901(4) of this act)).~~

Sec. 5. 5 . RCW 69.51A.047 and 2011 c 181 s 406 are each amended to read as follows:

A qualifying patient or designated provider who ~~((is not registered with the registry established in section 901 of this act or))~~ does not present his or her valid documentation to a peace officer who questions the patient or provider regarding his or her medical use of cannabis but is in compliance with all other terms and conditions of this chapter may establish an affirmative defense to charges of violations of state law relating to cannabis through proof at trial, by a preponderance of the evidence, that he or she was a validly authorized qualifying patient or designated provider at the time of the officer's questioning. A qualifying patient or designated provider who establishes an affirmative defense under the terms of this section may also establish an affirmative defense under RCW 69.51A.045.

Sec. 6. 6 . RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read as follows:

(1) The lawful possession or manufacture of ~~((medical marijuana))~~ cannabis for medical use as authorized by this chapter shall not result in the forfeiture or seizure of any real or personal property including, but not limited to, cannabis intended for medical use, items used to facilitate the medical use of cannabis or its production or

dispensing for medical use, or proceeds of sales of cannabis for medical use made by licensed cannabis for medical use producers, licensed cannabis for medical use processors, or licensed cannabis for medical use dispensers.

(2) No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of (~~((medical marijuana))~~) cannabis for medical use or its use as authorized by this chapter.

(3) The state shall not be held liable for any deleterious outcomes from the medical use of (~~((marijuana))~~) cannabis by any qualifying patient.

Sec. 7. 7 . RCW 69.51A.055 and 2011 c 181 s 1105 are each amended to read as follows:

(1)(a) The arrest and prosecution protections established in RCW 69.51A.040 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(b) The affirmative defenses established in RCW (~~((69.51A.043, 69.51A.045,))~~) 69.51A.047(~~((, and section 407 of this act))~~) may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(2) The provisions of RCW 69.51A.040, 69.51A.085, and 69.51A.025 do not apply to a person who is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision.

(3) A person may not be licensed as a licensed cannabis for medical use producer, licensed cannabis for medical use processor of cannabis products, or a licensed cannabis for medical use dispenser (~~((under section 601, 602, or 701 of this act))~~) if he or she is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that licensure is inconsistent with and contrary to his or her supervision.

Sec. 8. 8 . RCW 69.51A.060 and 2011 c 181 s 501 are each amended to read as follows:

(1) It shall be a class 3 civil infraction to use or display (~~((medical))~~) cannabis for medical use in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of cannabis. Such entities may enact coverage or non-coverage criteria or related policies for payment or nonpayment of (~~((medical))~~) cannabis (~~((in))~~) for medical use within their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of cannabis for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of cannabis in any place of employment, in any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking cannabis in any public place or hotel or motel.

(5) Nothing in this chapter authorizes the medical use of ~~((medical))~~ cannabis by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

(6) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of cannabis if an employer has a drug-free work place.

(7) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation ~~((under RCW 69.51A.010(32)(a)))~~, or to backdate such documentation to a time earlier than its actual date of execution.

(8) No person shall be entitled to claim the protection from arrest and prosecution under RCW 69.51A.040 ~~((or the affirmative defense under RCW 69.51A.043))~~ for engaging in the medical use of cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances.

(9) Notwithstanding the limitations set forth in this section, persons using cannabis for medical use pursuant to chapter 69.51A RCW are entitled to the same rights and protections from civil and criminal liability as users of prescription drugs under Washington state law.

Sec. 9. 9 . RCW 69.51A.085 and 2011 c 181 s 403 are each amended to read as follows:

(1) Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to the following conditions:

(a) No more than ten qualifying patients may participate in a single collective garden at any time;

(b) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

(c) A collective garden may contain no more than twenty-four ounces of ~~((useable))~~ usable cannabis per patient up to a total of seventy-two ounces of ~~((useable))~~ usable cannabis;

(d) A copy of each qualifying patient's valid documentation ~~((or proof of registration with the registry established in section 901 of this act, including a copy of the patient's proof of identity,))~~ must be available at all times on the premises of the collective garden; and

(e) No ~~((useable))~~ usable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden.

(2) ~~((For purposes of this section, the creation of a "collective garden" means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use~~

~~such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.~~

~~——(3))~~ A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections of this chapter.

Sec. 10. 10 . RCW 69.51A.110 and 2011 c 181 s 408 are each amended to read as follows:

A qualifying patient's medical use of cannabis as authorized by a health care professional may not be a sole disqualifying factor in determining the patient's suitability for an organ transplant(~~(, unless it is shown that this use poses a significant risk of rejection or organ failure. This section does not preclude a health care professional from requiring that a patient abstain from the medical use of cannabis, for a period of time determined by the health care professional, while waiting for a transplant organ or before the patient undergoes an organ transplant)).~~

NEW SECTION. Sec. 11. 11 . A new section is added to chapter 69.51A RCW to read as follows:

A qualifying patient who is under eighteen years of age may possess and administer cannabis for medical use only if the parent or legal guardian of the minor has signed a written statement affirming that the parent or legal guardian:

- (1) Understands the terminal or debilitating medical condition of the minor;
- (2) Understands the potential benefits and potential adverse effects of the medical use of cannabis, generally, and specifically in the case of the minor;
- (3) Consents to the medical use of cannabis for the treatment of the minor's terminal or debilitating medical condition; and
- (4) Consents to, or designates another adult to, serve as the designated provider for the minor and controls the acquisition, possession, dosage, and frequency of the medical use of cannabis by the minor.
- (5) It is not a violation of state criminal or civil law for qualifying patients under eighteen years of age, his or her parents or legal guardians, or his or her designated provider that are in compliance with this chapter.

NEW SECTION. Sec. 12. 12 . A new section is added to chapter 69.51A RCW to read as follows:

(1) It is not a violation of state criminal or civil law for a licensed cannabis for medical use dispenser or its employees, members, officers, or operators to distribute, deliver, dispense, transfer, prepare, package, repackage, label, relabel, sell, or possess cannabis of its members if all of the following criteria are met:

- (a) Licensed cannabis for medical use dispensers must obtain a business license from the department of revenue, and the cannabis for medical use regulation board;
- (b) Only qualifying patients or his or her designated providers may become members of a dispensary;

- (c) Members of a dispensary are not required to provide work as part of their membership;
- (d) A copy of each member's valid documentation must be available at all times on the premises of the dispensary;
- (e) No cannabis from the dispensary may be delivered to anyone other than a member of the dispensary;
- (f) Licensed cannabis for medical use dispensers must ensure that no cannabis, cannabis paraphernalia, or artistic depictions of cannabis may be viewed from outside the dispensary;
- (g) Licensed cannabis for medical use dispensers may hire staff or use member volunteers to assist in the operation of the dispensary;
- (h) Licensed cannabis for medical use dispensers may not advertise cannabis for sale to the general public in any manner that promotes or tends to promote the abuse of cannabis. This subsection (1)(h) does not preclude a licensed cannabis for medical use dispenser from advertising in trade journals or on cannabis web sites;
- (i) Licensed cannabis for medical use dispensers must keep records of all transactions;
- (j) Licensed cannabis for medical use dispensers are prohibited from dispensing cannabis that is labeled in a manner that mimics candy, soda, or other treats attractive to children; and
- (k) Licensed cannabis for medical use dispensers may not be located within one thousand feet of an accredited elementary or secondary school, public park, or child care center. A city, town, or county may adopt an ordinance providing for distance requirements that are greater than or less than the distance requirement under this subsection (1)(k), provided that they do not preclude the possibility of siting a licensed cannabis for medical use dispenser or dispensary within their jurisdiction. When an accredited elementary or secondary school, public park, or child care center opens within one thousand feet of a licensed cannabis for medical use dispenser after the lawful establishment of the licensed cannabis for medical use dispenser, the distance requirement in this subsection shall not apply to the licensed cannabis for medical use dispenser or dispensary.

(2) Retail sales of cannabis shall be subject to the botanical herb tax exemption as provided in RCW 82.08.0283 pursuant to a health care provider's valid documentation under this chapter. This tax exemption shall apply to all forms of cannabis sold by a licensed cannabis for medical use dispenser, but shall not apply to other products sold by a licensed cannabis for medical use dispenser.

(3) The cannabis for medical use regulation board may undertake subsequent rule making for licensed cannabis for medical use dispensers if necessary. Regulations pertaining to the operation of licensed cannabis for medical use dispensers shall be based upon existing industry standards and best practices for the sale and production of herbal products.

(4) A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections therein.

NEW SECTION. Sec. 13.13 . A new section is added to chapter 69.51A RCW to read as follows:

(1) It is not a violation of state criminal or civil law for licensed cannabis for medical use producers and their employees, officers, or operators to manufacture, plant, cultivate, grow, harvest, produce, prepare, propagate, process, package, repack, transport, transfer, deliver, label, relabel, wholesale, or possess cannabis intended for medical use by qualifying patients if all of the following criteria are met:

(a) Licensed cannabis for medical use producers must obtain a business license from the department of revenue, and the cannabis for medical use regulation board;

(b) No cannabis from a licensed cannabis for medical use producer may be delivered to anyone other than another cannabis for medical use licensee;

(c) Licensed cannabis for medical use producers must keep records of all production and delivery;

(d) Licensed cannabis for medical use producers must ensure that no cannabis, cannabis paraphernalia, or artistic depictions of cannabis may be viewed from outside the production facility;

(e) Licensed cannabis for medical use producers may hire staff or use patient volunteers to assist in the operation of the production facility;

(f) Licensed cannabis for medical use producers may not advertise cannabis for sale to the general public in any manner that promotes or tends to promote the abuse of cannabis. This subsection (1)(f) does not preclude a licensed cannabis for medical use producer from advertising in trade journals or on cannabis web sites;

(g) Licensed cannabis for medical use producers are prohibited from distributing cannabis that is labeled in a manner that mimics candy, soda, or other treats attractive to children; and

(h) Licensed cannabis for medical use producers may not be located within one thousand feet of an accredited elementary or secondary school, public park, or child care center. A city, town, or county may adopt an ordinance providing for distance requirements that are greater than or less than the distance requirement under this subsection (1)(h), provided that they do not preclude the possibility of siting a licensed cannabis for medical use producer or a production facility within their jurisdiction. When an accredited elementary or secondary school, public park, or child care center opens within one thousand feet of a licensed cannabis for medical use producer after the lawful establishment of the licensed cannabis for medical use producer, the distance requirement in this subsection shall not apply to the licensed cannabis for medical use producer or production facility.

(2) Transfer, delivery, and wholesale of usable cannabis shall be subject to the botanical herb tax exemption as provided in RCW 82.08.0283 pursuant to a health care provider's valid documentation under this chapter. This tax exemption shall apply to all forms of usable cannabis distributed by a licensed cannabis for medical use producer, but shall not apply to other products sold by a licensed cannabis for medical use producer.

(3) A cannabis for medical use producer license allows the licensee to produce cannabis in seed, cutting, flower, root, and all parts of plant body for sale at wholesale to any other cannabis for medical use licensee. Indoor production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in a nonrigid greenhouse, other structures, or an expanse of open or

cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(4) Any entity and/or principals within any entity are limited to no more than three cannabis for medical use producer licenses.

(5) The maximum amount of space for cannabis production is limited to two million square feet. Applicants must designate on their operating plan the size category of the production premise and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1: Less than two thousand square feet;
- (b) Tier 2: Two thousand square feet to ten thousand square feet; and
- (c) Tier 3: Ten thousand square feet to thirty thousand square feet.

(6) The cannabis for medical use regulation board may reduce a licensee's or applicant's square footage designated to plant cannabis for the following reasons:

(a) If the amount of square feet of production of all licensees exceed the maximum of two million square feet, the board will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation, the board may reduce their tier of license.

(7) If the total amount of square feet of cannabis production exceeds two million square feet, the board reserves the right to reduce all the licensees' production by the same percentage or reduce the licensees' production by one or more tiers by the same percentage.

(8) The maximum allowed amount of cannabis on a producer's premises at any time is as follows:

- (a) Outdoor or greenhouse grows: One and one-quarter of a year's harvest; or
- (b) Indoor grows: Six months of their annual harvest.

(9) The cannabis for medical use regulation board may undertake subsequent rule making for licensed cannabis for medical use producers if necessary. Rules pertaining to the operation of licensed cannabis for medical use producers shall be based upon existing industry standards and best practices for the sale and production of herbal products.

(10) A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections therein.

NEW SECTION. **Sec. 14. 14 .** A new section is added to chapter 69.51A RCW to read as follows:

(1) It is not a violation of state criminal or civil law for licensed cannabis for medical use processors and their employees, officers, or operators to manufacture, produce, prepare, process, package, repackage, transport, transfer,

deliver, label, relabel, sell, or possess cannabis for the medical use of qualifying patients if all of the following criteria are met:

(a) Licensed cannabis for medical use processors must obtain a business license from the department of revenue, and the cannabis for medical use regulation board;

(b) No cannabis products from a licensed cannabis for medical use processor may be delivered to anyone other than another cannabis for medical use licensee;

(c) Licensed cannabis for medical use processors must keep a record of all processing and delivery;

(d) Licensed cannabis for medical use processors must ensure that no cannabis, cannabis products, cannabis paraphernalia, or artistic depictions of cannabis may be viewed from outside the processing facility;

(e) Licensed cannabis for medical use processors may hire staff or use patient volunteers to assist in the operation of the processing facility;

(f) Licensed cannabis for medical use processors must follow the basic health and safety standards required of a commercial kitchen;

(g) Licensed cannabis for medical use processors may not advertise cannabis or cannabis products for sale to the general public in any manner that promotes or tends to promote the abuse of cannabis. This subsection (1)(g) does not preclude a licensed cannabis for medical use processor from advertising in trade journals or on cannabis web sites;

(h) Licensed cannabis for medical use processors are prohibited from distributing cannabis that is labeled in a manner that mimics candy, soda, or other treats attractive to children; and

(i) Licensed cannabis for medical use processors may not be located within one thousand feet of an accredited elementary or secondary school, public park, or child care center. A city, town, or county may adopt an ordinance providing for distance requirements that are greater than or less than the distance requirement under this subsection, provided that they do not preclude the possibility of siting a licensed cannabis for medical use processor or processing facility within their jurisdiction. When an accredited elementary or secondary school, public park, or child care center opens within one thousand feet of a licensed cannabis for medical use processor after the lawful establishment of the licensed cannabis for medical use processor, the distance requirement in this subsection shall not apply to the licensed cannabis for medical use processor or processing facility.

(2) Transfer, delivery, and wholesale of cannabis products shall be subject to the botanical herb tax exemption as provided in RCW 82.08.0283 pursuant to a health care provider's valid documentation under this chapter. This tax exemption shall apply to all forms of cannabis products distributed by a licensed cannabis for medical use processor, but shall not apply to other products sold by a licensed cannabis for medical use processor.

(3) The cannabis for medical use regulation board may undertake subsequent rule making for licensed cannabis for medical use processors if necessary. Regulations pertaining to the operation of licensed cannabis for

medical use processors shall be based upon existing industry standards and best practices for the sale and production of herbal products.

(4) A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections therein.

NEW SECTION. Sec. 15. A new section is added to chapter 69.51A RCW to read as follows:

(1) A cannabis for medical use regulation board is created and empowered to be the governing body over the cannabis for medical use market.

(2) The board is comprised of seven members:

(a) One member appointed from the Washington state department of health;

(b) One member appointed from the Washington state department of agriculture;

(c) One member appointed from the Washington state board of health;

(d) One member drawn in a lottery from practicing health care professionals who authorize and have knowledge in the medical use of cannabis who offers his or her name for service on the board for a one-year term;

(e) One member drawn in a lottery from qualifying patients, or his or her parent or legal guardian who offers his or her name for service on the board for a one-year term.

(f) One member drawn in a lottery from the licensed cannabis for medical use producers for service on the board for a one-year term; and

(g) One member drawn in a lottery from the licensed cannabis for medical use processors for service on the board for a one-year term.

(3) (a) Within thirty days of the effective date of this section, the first three board members must be appointed and called to a meeting on December 4, 2014, to set up and announce the accepting of names for service to the board, under this section (2) (d) and (e), as well as begin accepting applications for all cannabis for medical use licenses.

(b) Health care professionals, qualifying patients, or his or her parent or legal guardian wishing to offer his or her name for service to the board have thirty days to submit his or her name to the board for the first lottery. Others wishing to serve on the board must submit his or her name to the board for the yearly lotteries. Those seeking another term of service shall be put on a previous board members' list for the respective board positions. When the lotteries have no first time candidates, the appropriate board members' list is then used for the random draw of the lottery.

(c) On January 5, 2015 the board must draw randomly from the names submitted to fill the two board member positions. Within seven days of the announcement of the new board members, the board will be called to a meeting by January 12, 2015, to making any addition rules about licensing that are needed.

(d) After January 12, 2015, but by February 12, 2015, the board must start issuing licenses for cannabis for medical use producers, processors and dispensers to those already serving qualifying patients and designated providers.

(e) Thirty days after licenses start being issued, by March 12, 2015, the board will then draw from random the licensed cannabis for medical use producers and licensed cannabis for medical use processors to fill the last two board positions under this subsection (2)(f) and (g). Those seeking another term of service shall be put on a previous board members' list for the respective board positions. When there are no first time candidates for either position, the appropriate board members' list is then used for the random draw of the lottery.

(4) On March 16, 2015, the board is called to a meeting to govern the regulation of the cannabis for medical use market. The board must create a not-for-profit model governing all aspects of, yet not limited to, growing, production, and distribution of cannabis for medical use.

(5) The board must be in charge with financial stewardship of the dedicated cannabis for medical use account to maintain a revenue neutral governing body over the regulation the cannabis for medical use market.

(6) The board must have quarterly public meetings with the cannabis for medical use community and general public to share information, financial review; and to receive public input, suggestions, and concerns.

(7) The Washington state rules of seed to sale tracking must be used by the board for the tracking of cannabis for medical use under this chapter.

(8) The board may create further rules based upon existing industry standards and best practices for the regulation of the cannabis for medical use market.

NEW SECTION. Sec. 16. 15 . A new section is added to chapter 69.51A RCW to read as follows:

The dedicated cannabis for medical use account, which shall consist of all the cannabis for medical use application fees, annual fees for insurance and renewal of licenses, regulation fees, penalties, forfeitures, and all other moneys, income, or revenue received by the cannabis for medical use regulation board from the medical use of cannabis related activities, is created in the custody of the state treasurer.

All moneys received by the cannabis for medical use regulation board or any employee thereof from the medical use of cannabis related activities must be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the account.

Expenditures from the account must be authorized by the cannabis for medical use regulation board or a duly authorized representative thereof. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 17. 16 . A new section is added to chapter 69.51A RCW to read as follows:

(1)(a) There is a non-refundable application fee of two hundred fifty dollars and a one thousand dollar annual fee for insurance and renewal of licenses for each cannabis for medical use license that must be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated cannabis for medical use account.

(b) The cannabis for medical use regulation board may review the annual fee for insurance and renewal of licenses to adjust the cost in order to maintain a revenue-neutral governing body over the regulation of the cannabis for medical use market.

(2)(a) The board must conduct a criminal history check at the time of his or her application that requires the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history check.

(b) Criminal histories from any applicant that come back with any crime relating to cannabis must be evaluated during the issuing of a license. Cannabis only crimes including, though not limited to, growing, transportation, selling, or possession are not excluded from obtaining a license. Cannabis crimes that are non-violent, along with a gun possession charge from an applicant who was a licensed registered gun owner, are not excluded from obtaining a license. Crimes involving cannabis that are non-violent, along with any other charges, may be evaluated for the issuing of a license. This evaluation to determine eligibility of obtaining any cannabis for medical use license must be done by the cannabis for medical use regulation board.

NEW SECTION. Sec.18. 17 . A new section is added to chapter 69.51A RCW to read as follows:

(1) There is levied and collected a regulation fee for cannabis for medical use equal to six percent of the selling price on each sale in this state of cannabis by a licensed cannabis for medical use producer to any other cannabis for medical use licensee for one-year. After that year the cannabis for medical use regulation board must evaluate the regulation fee to determine if it shall be lowered, while remaining revenue neutral. After three years, if not already adjusted by the board, the regulation fee must not exceed three percent. After five years, if not already adjusted by the board, the regulation fee must not exceed two percent. This regulation fee is the obligation of the licensed medical cannabis producer who is selling the cannabis.

(2) There is levied and collected a regulation fee for a cannabis for medical use equal to six percent of the selling price on each wholesale sale in this state of usable cannabis or cannabis-infused product by a licensed cannabis for medical use processor to any other cannabis for medical use licensee for one-year. After that year the cannabis for medical use regulation board must evaluate the regulation fee to determine if it shall be lowered, while remaining revenue neutral. After three years, if not already adjusted by the board, the regulation fee must not exceed three percent. After five years, if not already adjusted by the board, the regulation fee must not exceed two percent. This regulation fee is the obligation of the licensed medical cannabis processor.

(3) There is levied and collected a regulation fee for cannabis for medical use equal to six percent of the selling price on each retail sale in this state of usable cannabis and cannabis-infused products for one-year. After that year the cannabis for medical use regulation board must evaluate the regulation fee to determine if it shall be lowered, while remaining revenue neutral. After three years, if not already adjusted by the board, the regulation fee must not exceed three percent. After five years, if not already adjusted by the board, the regulation fee must not exceed two percent. This regulation fee is the obligation of the licensed medical cannabis dispenser.

(4) All revenues collected from the regulation fee for cannabis for medical use imposed under subsections (1) through (3) of this section must be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated cannabis for medical use account.

(5) The cannabis for medical use regulation board shall regularly review the regulation fee in order to maintain a revenue neutral governing body.

NEW SECTION. **Sec. 19.** 18 . A new section is added to chapter 69.51A RCW to read as follows:

(1) Pursuant to the provisions of this chapter, the enumeration of the cannabis plant and any plant-based tetrahydrocannabinols in chapter 69.50 RCW as a controlled substance does not apply to:

- (a) The therapeutic or medical authorizations by a licensed health care professional to a qualifying patient;
- (b) The use, manufacture, delivery, transportation, sale, or possession of cannabis plants and plant-based tetrahydrocannabinols by qualifying patients, designated providers, and collective gardens;
- (c) The use, manufacture, delivery, transportation, sale, or possession of cannabis plants and plant-based tetrahydrocannabinols by licensed cannabis for medical use dispensers, licensed cannabis for medical use producers, and licensed cannabis for medical use processors; and
- (d) Licensed medical research and testing facilities.

(2) Chemical derivatives of tetrahydrocannabinols are not subject to the protections of this chapter.

(3) No state, city, town or county official may obtain federal funds, sign federal law enforcement contracts, or cooperate in any federal criminal investigation against anyone in compliance with the provisions of this chapter.

(4) Cannabis must be restored to the list of available medicines and therapeutic herbs for health care professionals to prescribe or authorize to patients according to state law.

NEW SECTION. **Sec. 20.** 19 . A new section is added to chapter 69.51A RCW to read as follows:

Nothing in this chapter or in the rules adopted to implement it precludes a qualifying patient or designated provider from engaging in the private, unlicensed, noncommercial production, possession, transportation, delivery, or administration of cannabis for medical use as authorized under RCW 69.51A.040.

NEW SECTION. **Sec. 21.** 20 . A new section is added to chapter 69.51A RCW to read as follows:

Nothing in this chapter or in the rules adopted to implement it precludes a collective garden from engaging in the private, unlicensed, noncommercial production, possession, transportation, delivery, or administration of cannabis for medical use as authorized under RCW 69.51A.085.

NEW SECTION. **Sec. 22.** 21 . A new section is added to chapter 69.51A RCW to read as follows:

Qualifying patients, designated providers, members of collective gardens, licensed cannabis for medical use dispensers, licensed cannabis for medical use processors, and licensed cannabis for medical use producers in compliance with all other terms and conditions of this chapter may not be arrested, searched, prosecuted, or subject to other criminal sanctions or civil consequences under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, for such activities, notwithstanding any other provision of law.

NEW SECTION. **Sec. 23.** 22 . A new section is added to chapter 69.51A RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a qualifying patient may not be refused housing or evicted from housing solely as a result of his or her possession or use of cannabis, except that housing providers otherwise permitted to enact and enforce prohibitions against smoking in their housing may apply those prohibitions to smoking cannabis provided that such smoking prohibitions are applied and enforced equally as to the smoking of cannabis and the smoking of all other substances, including without limitation tobacco.

(2) Housing programs containing a program component prohibiting the use of drugs or alcohol among its residents are not required to permit the medical use of cannabis among those residents.

NEW SECTION. **Sec. 24.** 23 . A new section is added to chapter 69.51A RCW to read as follows:

In imposing any criminal sentence, deferred prosecution, stipulated order of continuance, deferred disposition, or dispositional order, any court organized under the laws of Washington state may permit the medical use of cannabis in compliance with the terms of this chapter and exclude it as a possible ground for finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition, or dispositional order. This section does not require the accommodation of any medical use of cannabis in any correctional facility or jail.

NEW SECTION. **Sec. 25.** A new section is added to chapter 69.51A RCW to read as follows:

Recorded video evidence of impairment or determination of culpability in an accident must accompany THC concentration results tested under RCW 46.61.502 and 46.61.506 when presented as evidence in criminal or civil trial for qualifying patients with an authorization under this chapter.

NEW SECTION. **Sec. 26.** 24 . A new section is added to chapter 69.51A RCW to read as follows:

Washington state chartered banks and credit unions may accept deposits from, make loans to, and generally engage in normal business transactions with licensed cannabis for medical use dispensers, licensed cannabis for medical use processors, and licensed cannabis for medical use producers in Washington state.

NEW SECTION. **Sec. 27.** 25 . A new section is added to chapter 69.51A RCW to read as follows:

A nonresident who is duly authorized to engage in the medical use of cannabis under the laws of another state or territory of the United States may raise an affirmative defense to charges of violations of Washington state law relating to cannabis, provided that the nonresident:

(1) Possesses no more than fifteen cannabis plants and no more than twenty-four ounces of usable cannabis, no more cannabis product than reasonably could be produced with no more than twenty-four ounces of usable cannabis, or a combination of usable cannabis and cannabis products that does not exceed a combined total representing possession of no more than twenty-four ounces of usable cannabis;

(2) Is in compliance with all provisions of this chapter other than requirements relating to being a Washington resident or possessing valid documentation issued by a licensed health care professional in Washington;

(3) Presents the documentation of authorization required under the nonresidents authorizing state or territory's law and proof of identity issued by the authorizing state or territory to any peace officer who questions the nonresident regarding his or her medical use of cannabis; and

(4) Does not possess evidence that the nonresident has converted cannabis produced or obtained for his or her medical use for the use or benefit of anyone else.

NEW SECTION. **Sec. 28.** 26 . In the event that any sections of this act are in conflict with any other laws codified in the Revised Code of Washington, the provisions of this act shall control.

NEW SECTION. **Sec. 29.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 30.** 27 . The attorney general shall vigorously defend this act from all challenges by, yet not limited to, persons, officials, cities, counties, state, or federal governments by all legal means to the fullest extent possible.

NEW SECTION. **Sec. 31.** 28 . RCW 69.51A.043 (Failure to register--Affirmative defense) and 2011 c 181 s 402 are each repealed.

NEW SECTION. **Sec. 32.** RCW 69.51A.070 (Addition of medical conditions) and 2007 c 371 s 7 & 1999 c 2 s 9 are each repealed.